from removing certain machines conceded by the court otherwise to be removable trade fixtures. The ground of the decision seems to be the meaning of the word "detached" considered in view of the fact that the lessee had rented a building arranged for a stable for the purpose of running an ice cream manufactory and had altered the building to make it available for that purpose.

In *Re Howard Laundry Co.*, 203 Fed. 445, the Circuit Court of Appeals for the Second Circuit held that a clause in a lease providing that "all additions and improvements which may be made by either party to or upon said premises shall be the property of the landlord" did not cover trade fixtures in the form of machinery otherwise of a removable character. The court said: "The presumption is that trade fixtures belong to the tenant and if it be the intention of the parties that they shall become the property of the landlord at the expiration of the lease, that purpose should be stated in language so clear and explicit that there can be no doubt as to its meaning." Surely the language of the lease in *Reber* v. *Conway, supra,* was not of that clear and explicit character. It is believed that the court in the last mentioned case placed a construction upon the word "detached" and the language of the covenant not warranted by the generally considered prevailing doctrine.

R. W. A.

INTERSTATE AND INTRASTATE SHIPMENTS.—The difficulty which sometimes arises in determining whether a certain shipment is interstate or intrastate is well illustrated by a recent case in the United States Supreme Court. *Texas & New Orleans Railroad Company* v. *Sabine Tram Co.*, 33 Sup. Ct. 229. The Sabine Tram Company, plaintiff below, was engaged in the manufacture of lumber at Ruliff, Texas, an inland town. The W. A. Powell Company, of New Orleans, which was engaged in buying lumber for export, bought a large amount of lumber from the Sabine Tram Company, the contract providing that the lumber should be delivered f. o. b. cars at Sabine, Texas, a port town, during September. The Sabine Company billed the lumber "Sabine Tram Co., Sabine, Texas, Notify W. A. Powell Co." The bills of lading were sent through a bank to the Powell Company, who paid the drafts attached and sent the bills to their agent at Sabine. On the arrival of the lumber at Sabine station, the agent of the Powell Company took charge of the cars and had them hauled a quarter of a mile past the station to the docks where the lumber was unloaded within reach of ship's tackle. As the ships which the Powell Co. had chartered came in, the lumber was loaded and exported. The lumber was bought by the Powell Company for export, but not to fill any particular orders. The Sabine Company had no connection with the further carriage of the lumber after it reached Sabine station, the further carriage being done solely at the instance of the Powell Co. For the carriage from Ruliff to Sabine station, defendant railroad company charged the interstate rate of 15 cents per hundred pounds on the ground that this carriage was part of a foreign shipment. Plaintiff brought this action to recover the difference between that rate and the rate of 6½ cents per hundred, the rate prescribed by the Texas Railroad Commission for intrastate ship-

ments. The Texas supreme court (97 Texas 284), held that the shipment was intrastate and allowed the plaintiff to recover. The United States Supreme Court reversed the judgment, holding that the foreign shipment began at Ruliff.

The Texas court based its decision almost entirely on *G. C. & S. F. R. Co.* v. *Texas,* 204 U. S. 403, 51 L. Ed. 540. In that case, the Hardin Grain Co. sold two car-loads of corn to be delivered at Goldthwaite, Texas. The Hardin Company to fill this order purchased from the Harroun Company two car-loads of corn which were en route from South Dakota to Texarkana, Texas, billed to the Harroun Company. On the arrival of the corn at Texarkana, the Hardin Company's agent re-shipped it in the same cars and without breaking bulk, to Goldthwaite. The shipment from Texarkana to Goldthwaite was held to be intrastate. In the principal case, the court distinguished this case on the ground that "full title to and control of the corn did not pass to the Hardin Company until the corn reached Texarkana." This distinction is not clear, as in both cases bills of lading with drafts attached were sent, and both the Hardin Company and the W. A. Powell Company paid the drafts in order to take possession of the goods. The only real distinction appears to be that in the principal case, at the time of the original shipment, the consignee intended to export the goods, while in the grain case no further carriage was contemplated until the transfer was made while the goods were en route.

The Supreme Court in reversing the judgment of the State Court relied on *Southern Pacific Terminal Co.* v. *Interstate Commerce Commission,* 219 U. S. 498, 55 L. Ed. 310; and *Railroad Commission* v. *Worthington,* 225 U. S. 101, 56 L. Ed. 1004. In the former case, the Terminal Company owned wharves at Galveston and charged wharfage to those using them. Young, an exporter of cotton-seed meal, leased a part of the wharf and erected a mill thereon, paying yearly rent and no wharfage. Young bought cotton-seed cake at Texas points, had it shipped to him at Galveston, ground it to meal in his mill on the wharf and exported it. The Interstate Commerce Commission ordered the Terminal Company to desist giving Young any undue preference. This order was resisted, on the ground that the shipments to Young from points in Texas were intra-state and not within the jurisdiction of the Commission. The court held the shipments to be under the control of the Commission, saying: "They were all destined for export and by their delivery to the railway they must be considered as having been delivered to a carrier for transportation to a foreign destination." This case seems to support the view of the court in the principal case, but no reasons for the holding were given. *Railroad Commission* v. *Worthington, supra,* does not seem to involve the precise point. There the Ohio Railroad Commission placed a rate on "Lake cargo" coal, which was coal billed from Ohio coal fields to points on Lake Erie, the rate applying only to coal actually loaded on vessels for shipment out of the state, and covering the loading on the vessels and trimming as well as the carriage from the mines to the port. This was held beyond the power of the state as an attempt to regulate interstate commerce.

The section of the Interstate Commerce Act applicable to the principal

case reads: "This act applies * * * to transportation of property shipped from any place in the United States to a foreign country and carried from such place to a port of trans-shipment." The rule always quoted by the courts in cases involving the question was first stated in *Coe* v. *Errol*, 116 U. S. 517, 29 L. Ed. 715, "that goods are in interstate or foreign commerce when they have actually started in the course of transportation to another state, or delivered to a carrier for transportation in a continuous route of journey." It is evident this rule is of little aid, for the question is generally, as in the present case, whether the goods have been delivered for transportation in a continuous route of journey. In the principal case, it seems that the fact that the consignee intended to export the lumber was the determining factor, and yet the courts deny that the intention, either of the shipper or of the consignee, can change the character of the shipment, the Supreme Court saying in *G. C. & S. F. R. R. Co.* v. *Texas, supra*: "In many cases it would work the grossest injustice to the carrier if it could not rely on the contract of the shipment it had made, know whether it was bound to obey the state or the federal law, or, obeying the former, find itself mulcted in damages for not obeying the law of the other jurisdiction, simply because the shipper intended a transportation beyond that specified in the contract." On the other hand it is well settled that the bill of lading in itself does not govern. As where goods are billed to a point in the same state to be delivered to a carrier to be shipped out, they are in interstate commerce throughout. *Houston Direct Navigation Co.* v. *Insurance Co.*, 89 Tex. 1, 30 L. R. A. 713. Likewise when billed to an agent to be re-shipped out of the state. *Cutting* v. *Florida Ry. and Nav. Co.*, 46 Fed. 641, or where the shipper bills to one point, intending himself to forward to another point. *Porter* v. *St. L. S. W. Ry. Co.*, 78 Ark. 182. While the Supreme Court in the principal case stated the above rule to be well settled, it used the following illustration in *G. C. & S. F. R.* v. *State, supra*.. "Suppose a car load of goods were shipped from Texarkana to Goldthwaite under a bill of lading calling for that transporation only, and supposing that the laws of Texas required, subject to a penalty, that such goods should be carried in a particular kind of a car—can there be any doubt that the carrier would be subject to the penalty, even though it should appear that the shipper intended after the goods had reached Texarkana to forward them to some place outside the state?" The statement in *Houston Direct Nav. Co.* v. *Insurance Co., supra,* that "no direct and certain definition of Interstate Commerce has yet been fixed by the decisions of the courts and perhaps none can be found which will apply to all cases," seems quite true. And this can be said without considering those cases involving the right of a state to tax, in which the courts seem to take a still different view of when goods are in interstate commerce.

R. L. M.

THE EVASION OF LIMITATIONS ON MUNICIPAL INDEBTEDNESS.—The very generally adopted limitations on the amount of indebtedness lawfully to be contracted by a municipal corporation often run contrary to the desires and needs of such corporations, and the attempts to accomplish by indirection the forbidden result have led to many interesting decisions. In a recent case